HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 4189 of 2001 (MS)
(Old No. 40973/1998)

Chhotey Agha ..... Petitioner

Versus

Chief Controlling Revenue Authority
& others ..... Respondents

Dated: 20.8.2004

Hon. Rajesh Tandon J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 30.5.1994 passed by the respondent no.2 and order dated 26.8.1998 passed by the respondent no.1.

Briefly stated that Sri Piyush Kumar Karanwas had executed a sale deed on 2.7.1993 in respect of first floor of the house being Municipal No.43 , Paltan Bazaar, Dehradun. The property in question has been assessed to the Municipal Assessment at Rs.600/- per annum and in view of Rules 340 and 341 of Stamp Manual Act, and Rules its twenty five time whereof comes to Rs.15,000/-. The property in question was sold for Rs.40,000/- on which a stamp duty of Rs.5800/- has been paid. On the reference made by the Sub Registrar to the Collector Stamp a case was registered against the petitioner .

The sub Registrar, Dehradun filed a report in the case that the rental value of the property is Rs.3,000/- per month and on this he valued the property at Rs. 9,00,000/-. The Addl. District Magistrate (Finance/Revenue), has held that there was a deficiency of Rs.33,350/- in payment of stamp duty. The petitioner challenged the said order before the Chief Controlling revenue Authority (C.C.R.A.) by filing revision No. 559-A of 1994-95 which was decided on 26.8.1998 and a deficiency of Rs.37,700/- in payment of stamp duty was held.

None appears for the petitioner to press the writ petition however, I have perused the orders passed by both the Courts. I find that both the courts below have assessed the value of the property on the presumptive rent and have considered the Nagar Palika Assessment. Therefore, I find that the order passed by the Addl. District Magistrate is itself contradictory to the evidence on record.

Consequently, the writ petition is allowed. Impugned orders dated 30.5.1994 and 26.8.1998 are quashed. The matter is sent back to the Collector, Stamp for deciding it afresh in accordance with law.

No order as to costs.

(Rajesh Tandon, J.)

20.9.2004
*Dhyani